

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA

vs.

CASE NUMBER: 98-101-07 (SEC)

ARCADIO PEREZ OSORIO

**MOTION NOTIFYING VIOLATIONS
TO THE SUPERVISED RELEASE CONDITIONS**

**TO THE HONORABLE SALVADOR E. CASELLAS,
U.S. DISTRICT COURT JUDGE
DISTRICT OF PUERTO RICO**

COMES NOW, Víctor Canino, U.S. PROBATION OFFICER of this Honorable Court, presenting an official report on the conduct of Mr. Arcadio Pérez Osorio.

On March 24, 1999, Arcadio Pérez Osorio pled guilty to federal narcotics laws violations, specifically Conspiracy to Possess with intent to Distribute at least two (2), but less than three and a half (3.5) kilograms of cocaine, all in violation of 21 U.S.C. §§ 841(a)(1) and 846.

On August 27, 1999, Mr. Arcadio Pérez Osorio appeared before your Honor and was sentenced to forty-eight (48) months of imprisonment with a four (4) year term of supervised release and the following special conditions: urinalysis and drug treatment if deemed necessary and to provide financial information upon request including evidence of filing of income tax returns.

On September 14, 2001, Mr. Arcadio Pérez Osorio was released from custody at which time he began his term of supervised release. On September 17, 2001, Mr. Pérez Osorio reported to the United States Probation Office and signed his conditions of release.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

Special Condition: The Defendant shall refrain from any unlawful use of controlled substances. Should any samples detect any substances, the defendant shall participate in a drug treatment program until discharged by the United States Probation Office.

Mr. Arcadio Pérez Osorio has tested positive for cocaine on a multitude of occasions. Consequently, the United States Probation Office in the District of Puerto Rico has repeatedly attempted to assist Mr. Pérez Osorio with his drug problem.

Specifically, on September 22, 2004, Mr. Arcadio Pérez Osorio reported to the United States Probation Office and submitted an urinalysis sample. Said sample ultimately tested positive for cocaine. As a result, the United States Probation Office placed Mr. Arcadio Pérez Osorio on phase one urine collection. Phase I urine collection consist of the offender being provided with a color, he is then directed to call the United States Probation Office on a daily basis. If the daily color matches the offender's color, he must report to the office to provide a uranalysis.

On October 5, 2004, Mr. Pérez Osorio tested positive for cocaine and denied that he had used any illegal substances. Said sample, number C00101112, was ultimately forwarded to the laboratory for confirmation. On October 13, 2004, this writer received conformation that the urinalysis collected on October 5, 2004, was positive for cocaine.

On November 22, 2004, Mr. Pérez Osorio again tested positive for cocaine. On this occasion, Mr. Pérez Osorio admitted to the use of cocaine and signed an admission to said use. Nonetheless said sample, number C0086813, was forwarded to Scientific Testing Laboratories for

confirmation. On December 9, 2004, said sample was confirmed positive for the presence of cocaine. While awaiting confirmation on the previously indicated urinalysis, Mr. Mr. Pérez Osorio was tested again on December 7, 2004. Said test detected cocaine and Mr. Pérez Osorio signed an admission as to his cocaine use.

On December 8, 2004, Mr. Pérez Osorio was referred to Hogar San José, an inpatient drug counseling program, in Luquillo, Puerto Rico. On December 10, 2004, Mr. Pérez Osorio reported to the program for a thirty day placement. While at the program, Mr. Pérez Osorio participated in all aspects of the treatment and successfully completed the program. Upon his release from Hogar San José on January 9, 2005, Mr. Pérez Osorio was placed on Phase I urine collection. For the next five months, while on Phase I urine collection, Mr. Pérez Osorio consistently provided negative samples. As discussion arose to step him down to a Phase II collection, Mr. Pérez Osorio faltered and relapsed into substance abuse.

On May 26 and 31, 2005, Mr. Pérez Osorio tested positive again for cocaine. Like the other samples, C00293940 and C0029948, were sent for confirmation. Mr. Pérez Osorio signed a the corresponding confession for the May 26, 2005 sample. The case was discussed with the Drug Treatment Specialist, Jeffrey Semiday, who indicated that there was no contracted ambulatory drug programs in Vieques, nor Fajardo, Puerto Rico. Consequently, it was determined that Mr. Pérez Osorio would have to report to the United States Probation Office three times per week for urinalysis.

On June 21, 2005, Mr. Pérez Osorio requested that he be allowed to return to Phase I because he was losing too much money when he came to be tested three times per week. Given that Mr. Pérez Osorio had provided six negative results, from May 27, 2005, to July 8, 2005, he had three

months remaining of his supervised release, and the fact that he could lose his employment, this writer determined that Mr. Pérez Osorio should be rewarded. Thus this writer returned Mr. Pérez Osorio to Phase I urine collection.

On July 12, 2005, Mr. Pérez Osorio once again provided a positive urinalysis. Though he did not sign an admission, he admitted to using cocaine. Furthermore, on August 8, 2005, Mr. Pérez Osorio tested positive again and signed an admission.

WHEREFORE, in lieu of the aforementioned violations, it is respectfully requested that the Court issue a warrant for Mr. Arcadio Perez Osorio arrest so that he may be brought before this Honorable Court to show cause why his supervised release term should not be revoked.

In San Juan, Puerto Rico, this 9th day of August 2005.

Respectfully submitted,

EUSTAQUIO BABILONIA, CHIEF
U.S. PROBATION OFFICER

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 9, 2005, I electronically filed the foregoing motion with the Clerk of the Court using the EM/ECF system which will send notification of such filing to the following: H.S. García, U.S. Attorney, and Joseph Laws of the United States Federal Public Defenders Office.

At San Juan, Puerto Rico this 9th day of August 2005.

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